

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|---|---|----------------|
| THE APPLICATION OF EVANSVILLE MSA |) | |
| LIMITED PARTNERSHIP FOR THE ISSUANCE OF |) | |
| A CERTIFICATE OF PUBLIC CONVENIENCE AND |) | |
| NECESSITY TO PROVIDE DOMESTIC PUBLIC |) | |
| CELLULAR RADIO TELECOMMUNICATIONS SERVICE |) | CASE NO. 10096 |
| TO THE PUBLIC IN HENDERSON COUNTY AND |) | |
| PORTIONS OF DAVIESS AND UNION COUNTIES, |) | |
| KENTUCKY, AND FOR ESTABLISHMENT OF |) | |
| INITIAL RATES |) | |

O R D E R

On November 25, 1987, Evansville MSA Limited Partnership ("Evansville Ltd.") filed an application with this Commission seeking a certificate of public convenience and necessity to construct and operate a new domestic public cellular radio telecommunications facility to serve Henderson County and portions of Daviess and Union counties, Kentucky. These areas comprise the Kentucky portion of the Evansville, Indiana metropolitan statistical area ("MSA").

The Federal Communications Commission ("FCC") by public notice, Report No. CL-86-202, granted a construction permit to the applicant for the provision of domestic, public, cellular radio telecommunication service on June 20, 1986. Additionally, the applicant has been issued a mobile radio station authorization by the FCC. Furthermore, the Public Service Commission of Indiana has issued the applicant a certificate of territorial authority to

offer and furnish domestic, public cellular radio telecommunications service within the Indiana portion of the Evansville MSA.

Evansville Ltd.'s application, and answers to Commission information requests, make clear that construction on the proposed cellular communications facility was begun before the applicant filed for approval with this Commission. Evansville Ltd. is hereby notified that the Kentucky Public Service Commission is to be notified prior to the beginning of construction of any utility facility. Pursuant to KRS 278.020(1):

No person, partnership, public or private corporation or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010. . . until such person has obtained from the public service commission a certificate that public convenience and necessity require such construction.

This Commission cannot issue a certificate to construct a facility that has been completed. The Commission is persuaded that Evansville Ltd. proceeded in good faith by seeking approval for construction from the Henderson-Henderson County Planning Commission, instead of asserting the statutory exemption contained in KRS 100.324 and seeking Public Service Commission approval of the cell site construction. Therefore, no penalty shall be imposed.

By this Order, we accept, subject to the conditions contained within this Order, the tariffs of Evansville Ltd., and thereby grant the utility authority to operate within Kentucky. The Commission is persuaded, based upon evidence contained within the record of this case, that Evansville Ltd. has the financial,

technical and managerial abilities to provide reasonable service within the Kentucky portion of the Evansville MSA.

The Commission finds that the proposed initial rates and conditions of service proposed by the applicant are reasonable, with the following exceptions. Section 3.5 of the proposed tariff (original pages 12 and 13) pertains to disconnection of service for cause. Evansville Ltd. is reminded that its proposed disconnect provision must comply with 807 KAR 5:006, Section 11(1) and (3). Section 3.7(c) of the proposed tariff (original page 13) pertains to deposits. Evansville Ltd. is hereby notified that interest at the rate of 6 percent per annum must be paid on all deposits, accruing from the date of deposit. Upon customer request, interest must be paid annually. KRS 278.460 and 807 KAR 5:006, Section 7 govern the maintenance of deposits by utilities. Evansville Ltd. should conform with all provisions of 807 KAR 5:006, Section 7.

FINDINGS

1. Evansville Ltd. should be granted authority to provide cellular mobile radio service within the Kentucky portion of the Evansville MSA.

2. Evansville Ltd.'s proposed tariff should be accepted, subject to the exceptions noted herein.

IT IS THEREFORE ORDERED that:


1. Evansville Ltd.'s application for authority to provide domestic public cellular radio telecommunication service is hereby granted;


2. Evansville Ltd.'s proposed tariff is hereby accepted, subject to the exceptions contained within this Order; and

3. Within 30 days of the date of this Order Evansville Ltd. shall file its tariff, reflecting any changes necessitated by this Order.

Done at Frankfort, Kentucky, this 2nd day of February, 1988.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director